

REMARKS

The Examiner's communication dated August 15, 2008 has been received and carefully considered. In conformance with the applicable statutory requirements, this paper constitutes a complete reply and/or a bona fide attempt to advance the application to allowance. Specifically, claims 1, 7 and 22 have been amended and claim 6 has been cancelled. In addition, detailed arguments in support of patentability are presented. Reexamination and/or reconsideration of the application as amended are respectfully requested.

Summary of the Office Action

The drawings were objected to under 37 CFR 1.83(a).

Claims 1-25 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement.

Claims 1-25 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-5, 8-19 and 21-25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kobow et al. (DE 19708741A1) in view of Frantz (U.S. Patent No. 2,705,020).

Claims 6, 7 and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kobow et al. and Frantz and further in view of Dettmers (DE 10047073 C1).

Drawings

In objecting to the drawings, the Examiner indicates that the drawings must show every feature of the invention specified in the claims. In particular, the Examiner alleges that the sealing seat of claim 4 and the control piston shaft of claim 12 must be shown or the features cancelled from the claims.

Applicant respectfully submits that an exemplary sealing seat which supports the sealing seat first introduced in independent parent claim 1 and referred to in claim 4 is already shown in the drawings. In particular, in the illustrated embodiment, the sealing

ring 18 forms a sealing seat. To further clarify this, the specification is amended herein to specify that sealing ring 18 forms a sealing seat shown.

Concerning the control piston shaft of claim 12, it is respectfully submitted that the Examiner is in error. The Examiner's attention is directed to the second paragraph of page 13 of the application wherein this limitation is fully discussed. In particular, at this location of the specification, it is indicated that the control piston 13 comprises in its forward part, facing the valve piston 12, a control piston shaft 36. The control piston shaft 36 is shown in at least FIGS. 3 and 5.

In view of the foregoing, it is respectfully requested that the Examiner withdraw his objections to the drawings.

35 U.S.C. § 112, First Paragraph

The Examiner argues that the limitation in claims 1 and 22 indicating that "the first radial aperture can be closed by the control piston with the arrival of the control piston at an intermediate position" is not supported in the specification. The Examiner references page 13 of the subject application, lines 27-29, and quotes as follows: "the control piston 13... overlaps the first radial hole and thereby closes it." The Examiner goes onto argue that "there is no support as to how the piston closes the first radial hole, as shown there is no oring [sic] sealing interface at the front portion of the control piston, therefore there must be clearance which would provide a path for leakage between the first radial hole and the control piston."

Applicant respectfully submits that the wording "closing" within the independent claims does not necessarily mean that the control piston fully closes and seals the first radial hole when arriving at its intermediate position. The lines following page 13, lines 27-29, make clear that the overlapping of the first radial hole 29 of the control piston 13 shall only have "a sufficient sealing effect," with either giving "excess via a restricting section between the first radial aperture 29 and the control piston 13" or "seal of the first aperture 29 completely." In other words, the recitation in claim 1 that the first radial aperture can be closed by the control piston with the arrival of the control piston at the intermediate position between an initial position and an end position does not require complete closure, but rather encompasses complete closure or substantial closure.

Much like an interior door in a building, the door does not necessarily close airflow communication between two adjacent rooms when in its closed position, but rather substantially closes the opening in which it is disposed. In the illustrated embodiment of the subject invention, it is indeed not necessary to completely seal the first radial hole 29 with the control piston, but rather it is sufficient to overlap the first radial hole 29 to restrict the still open section of the first radial aperture 29 with the control piston.

Similarly, independent claim 22 calls for the first radial aperture to be closed by the control piston when a control piston is in an intermediate position between the first and second positions. Claim 22 has been amended to specify that such closure is to restrict fluid communication through the first radial aperture (not necessarily completely prevent such fluid communication).

For at least the foregoing reasons, it is respectfully requested that the Examiner withdraw his rejection against the claims under 35 U.S.C. § 112, first paragraph.

35 U.S.C. § 112, Second Paragraph

Under the second paragraph of § 112, the Examiner again rejects the claims arguing that the recitation of "the first radial aperture can be closed by the control piston with the arrival of the control piston at an intermediate position" is allegedly unclear. The Examiner indicates that it is "unclear as to how the first radial aperture is closed, as it would appear there is clearance for leakage or a blocking effect of the hole." As discussed more fully in the preceding section, the recitation of the first radial aperture being closed in either of claims 1 or 22 does not require absolute or complete sealing of the aperture 29. Rather, closing of the first radial aperture could be complete or could allow some limited amount of fluid to pass thereby through a restriction section formed between the first radial aperture 29 and the control piston 13.

Concerning the recitation of "sealing seat" in claim 4, it is believed that the amendments to the specification should overcome this issue. More specifically, the specification amendment indicates that ring 18 forms a sealing seat.

Concerning the recitation of "a control piston shaft" in claim 12, as already discussed, the Examiner's attention is directed to the paragraph beginning on page 13 of the subject application wherein the control piston shaft is associated with reference

numeral 36, which is shown in at least FIGS. 3 and 5. As far as the Examiner's question as to how a "throttling clearance" could be sealed, Applicant respectfully submits that this would be understood by one skilled in the art and could be accomplished in numerous ways. For example, the tolerances between surface 12a and 20a could be such that the throttling clearance is sealed when the surfaces overlap one another beyond a specified dimension.

The Examiner indicates that "narrow" is unclear in claim 24, but appears to be referencing claim 25 as there is no use of the word "narrow" in claim 24. As far as its use in claim 25, it is respectfully submitted that one skilled in the art would understand the recitation of the restricted fluid connection being formed by a narrow clearance between the side wall of the valve piston and the valve piston sliding guide in view of the teachings of the present application, including the specification and drawings.

For at least the foregoing reasons, it is respectfully requested that the Examiner withdraw his claim rejections under 35 U.S.C. § 112, second paragraph.

**The Claims Distinguish Patentably
Over the Reference(s) of Record**

Independent **claim 1**, as amended, calls for a control piston that is free to move relative to a valve piston from its initial position up to its intermediate position, and travels from the intermediate position to the end position coupled with the valve piston. This limitation was previously presented in dependent claim 6, which, as indicated in the Summary section above, was rejected over the triple combination of Kobow et al., Frantz and Dettmers. In particular, the Examiner rejected claims 6, 7 and 20 together in numbered paragraph 9 beginning on page 9 of the recent Office Action and bridging over to page 10.

The Examiner appears to have overlooked the limitations previously presented in dependent claim 6 as these do not appear to be addressed on either page 9 or page 10 of the recent Office Action. In any case, it is respectfully submitted that the references applied against previously presented dependent claim 6 fail to disclose the hydraulically switchable distribution valve of amended claim 1 which calls for a control piston to be free to move relative to a valve piston from its initial position up to its intermediate

position, and travels from the intermediate position to the end position coupled with the valve piston.

Moreover, the limitations of claim 1 calling for the first radial aperture to be closed by the control piston with the arrival of the control piston at an intermediate position between an initial position and an end position is also not disclosed by the references of record. As indicated in Applicant's previous response, if radial aperture 23 of Kobow et al. is taken as the first aperture, which would be required if Frantz is being relied upon to provide the second aperture, control piston 16 would not close aperture 23 when in some intermediate position between its initial position and its end position. Rather, the control piston 16 appears to block outlet 22 and allow communication from port A to port P when surface spring 10 is separated from seal seat ring 11 via aperture 23. In other words, fluid communications for aperture 23 appears to occur openly and uninhibited regardless of the position of the control piston 16 and does not appear to be affected by the control piston 16 being in some intermediate position between an initial position and an end position.

In responding to Applicant's previously presented arguments, the Examiner appears to rely on his assertion that it is unclear as to how the first radial aperture can be closed when it appears that this opening is only restricted and not closed. As already discussed herein, Applicant respectfully submits that the claim language is sufficient to enable one skilled in the art to practice the invention in that the limitation "closed" does not require a complete sealed closure.

Applicant continues to challenge the Examiner's combination of references as applied against claim 1. In particular, Applicant respectfully submits that the combination fails to disclose all of the limitations of claim 1. The Examiner relies on Kobow as allegedly teaching a first radial aperture and relies on Frantz as allegedly teaching a second radial aperture. However, Applicant respectfully asserts that there is no disclosure in either reference, whether alone or in combination, of a second radial aperture displaced towards the end face relative to the first radial aperture.

For all of the foregoing reasons, it is respectfully submitted that claim 1 and claims 2-5 and 7-21 are in condition for allowance.

Independent **claim 22** calls for a first radial aperture to be closed by a control piston when the control piston is in an intermediate position between first and second positions to restrict fluid communication through the first radial aperture. As discussed in reference to claim 1, it is respectfully submitted that radial aperture 23 of Kobow et al. is not closed, as required by claim 22, by control piston 16 when control piston 16 is in any intermediate position between its initial position and its end position. Rather, the control piston 16 blocks outlet 22 and allows communication from port A to port P when circuit spring 10 is separated from seal seat ring 11 via aperture 23. Thus, fluid communication through aperture 23 is open (i.e., not closed) and uninhibited regardless of the position of the control piston 16 and is unaffected by the control piston 16 being in an intermediate position between its initial position and its end position.

For at least the foregoing reasons, Applicant respectfully submits that claim 22 and claims 23-25 are in condition for allowance.

CONCLUSION

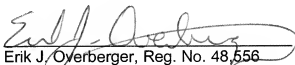
All formal and informal matters having been addressed, it is respectfully submitted that this application is in condition for allowance. It is believed that the claim changes and/or arguments supporting patentability clearly place the application in condition for allowance, defining over any fair teaching attributable to the references of record. Alternatively, if the Examiner is of the view that the application is not in clear condition for allowance, it is requested that the Examiner telephone the undersigned for purposes of conducting a telephone interview to resolve any outstanding differences. Accordingly, an early notice of allowance is earnestly solicited.

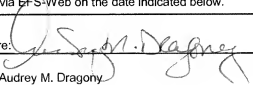
Respectfully submitted,

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November 14, 2008

Date


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